Supreme Court, U.S.
F I L E D
JAN 18 1996
CLERK

NO. 95-980

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1995

THE CUSTOMER COMPANY,

Petitioner,

vs.

THE CITY OF SACRAMENTO AND THE COUNTY OF SACRAMENTO,

Respondents.

On Petition for Writ of Ceriorari from the California Supreme Court

Brief in Opposition

Stephen E. Horan
Counsel of Record

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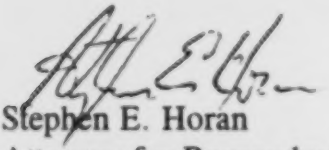
State Court decisions about state law cannot be reviewed by the United States Supreme Court. Murdock v. Memphis, 87 U.S. 590 (1875). Even issues of federal law resolved by state courts will not be reviewed by the United States Supreme Court if the state judgment rests upon an "adequate and independent" state ground. Michigan v. Long 463 U.S. 1032 (1983). In determining if the state court decision rests only on state law, Justice O'Connor suggests one must look at whether the state decision is interwoven with federal law such that it is not possible to find a clear, plain statement by the court that the decision was based on state law. Looking at the California Supreme Court's decision in the instant case, it is clear that the court's decision was based on state law - a provision of the California Constitution. The state court decision in no way turned on federal law. (Appendix p. 2, 3 and 63) Even assuming Amicus had standing to frame the issues before the state court (which they do not) the court's opinion is based on an analysis of state law and not Amicus' 5th Amendment federal

question argument. Accordingly, review is not appropriate and the writ should be denied.

Dated: January 12, 1996

Respectfully submitted,

PORTER, SCOTT, WEIBERG & DELEHANT
A Professional Corporation

By 
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